REMARKS

§102 rejections

In the 20 October 2006 Office Action claims 44 – 59 and 65 - 81 are rejected under §102 as being anticipated by U.S. Patent 4,989,141 (hereinafter, Lyons). The Examiner has cited the Lyons document as a reference. The Assignee respectfully traverses the rejections for anticipation in two ways. First, by noting that the rejections fail under both standards of the APA. Second, by noting that the Office Action has failed to establish a prima facie case of anticipation for the rejected claims. More specifically, the Office Action fails to establish a prima facie case of anticipation in as many as three separate ways for every rejected claim.

The first way in which the 20 October 2006 Office Action fails to establish a prima facie case of anticipation for many if not all of the rejected claims is that the Lyons document fails to describe every element of the rejected claims. MPEP 2131 notes that:

> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The second way in which the 20 October 2006 Office Action fails to establish a prima facie case of anticipation for many if not all of the rejected claims is that the Lyons document fails to provide the same level of detail that is present in the claim. MPEP 2131 notes that anticipation requires that:

> "The identical invention must be shown in as complete detail as is contained in the ... claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The third way in which the 20 October 2006 Office Action fails to establish a prima facie case of anticipation for many if not all of the claims is that the Office Action does not describe the basis in fact or technical reasoning that is required to support the allegations regarding allegedly inherent characteristics contained in the Burks reference. MPEP 2112 notes that:

"In relying upon the theory of inherency, the Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." Ex parte Levy, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)

The Assignee respectfully submits that the rejection of independent claim 44 can be traversed by noting that Lyons: is missing elements contained in claim 44, provides insufficient detail regarding elements of claim 44 and that any alleged inherency of features of claim 44 has not been explained. Elements of claim 44 not explicitly or inherently described in the Lyons document include: aggregating enterprise related event data and/or aggregating data from a plurality of database management systems. Lyons also lacks detail regarding aggregating enterprise related event data and any alleged inherency of aggregating enterprise related event data has not been explained. Lyons also lacks detail regarding aggregating data from a plurality of database management systems and any alleged inherency of aggregating data from a plurality of database management systems has not been explained. The Assignee notes that there are still other ways in which the §102 rejection of claim 44 can be traversed. As a result of these deficiencies, a prima facie case that would support the anticipation rejection of claim 44 has not been established. Claims 45 - 52 are directly or indirectly dependent on claim 44 so the traversal of the claim 44 anticipation rejection also serves to traverse the rejection of these claims by making it clear that the Examiner has failed to establish a prima facie case of anticipation for the parent claim.

The Assignee respectfully submits that the rejection of independent claim 53 can be traversed by noting that Lyons: is missing elements contained in claim 53, provides insufficient detail regarding elements of claim 53 and that any alleged inherency of features of claim 53 has not been explained. Elements of claim 53 not explicitly or inherently described in the Lyons document include: aggregating enterprise related event data and/or aggregating data from a plurality of database management systems. Lyons also lacks detail regarding aggregating enterprise related event data and any alleged inherency of aggregating enterprise related event data has not been explained. Lyons also lacks detail regarding aggregating data from a plurality of database management systems and any alleged inherency of aggregating data from a plurality of database management systems has not been explained. The Assignee notes that there are still other ways in which the §102 rejection of claim 53 can be traversed. As a result of

these deficiencies, a prima facie case that would support the anticipation rejection of claim 53 has not been established. Claims 54 - 59 are directly or indirectly dependent on claim 53 so the traversal of the claim 53 anticipation rejection also serves to traverse the rejection of these claims by making it clear that the Examiner has failed to establish a prima facie case of anticipation for the parent claim.

The Assignee respectfully submits that the rejection of independent claim 65 can be traversed by noting that Lyons: is missing elements contained in claim 65, provides insufficient detail regarding elements of claim 65 and that any alleged inherency of features of claim 65 has not been explained. Elements of claim 65 not explicitly or inherently described in the Lyons document include: aggregating enterprise related event data and/or aggregating data from a plurality of database management systems. Lyons also lacks detail regarding aggregating enterprise related event data and any alleged inherency of aggregating enterprise related event data has not been explained. Lyons also lacks detail regarding aggregating data from a plurality of database management systems and any alleged inherency of aggregating data from a plurality of database management systems has not been explained. The Assignee notes that there are still other ways in which the §102 rejection of claim 65 can be traversed. As a result of these deficiencies, a prima facie case that would support the anticipation rejection of claim 65 has not been established. Claims 66 is directly or indirectly dependent on claim 65 so the traversal of the claim 65 anticipation rejection also serves to traverse the rejection of this claim by making it clear that the Examiner has failed to establish a prima facie case of anticipation for the parent claim.

The Assignee respectfully submits that the rejection of independent claim 67 can be traversed by noting that Lyons: is missing elements contained in claim 67, provides insufficient detail regarding elements of claim 67 and that any alleged inherency of features of claim 67 has not been explained. Elements of claim 67 not explicitly or inherently described in the Lyons document include: obtaining a plurality of data dictionaries and data from a plurality of data sources via a network connection. Lyons also lacks detail regarding obtaining a plurality of data dictionaries and data from a plurality of data sources via a network connection and any alleged inherency of obtaining a plurality of data dictionaries and data from a plurality of data sources via a network connection has not been explained. The Assignee notes that there are still other

ways in which the §102 rejection of claim 67 can be traversed. As a result of these deficiencies, a prima facie case that would support the anticipation rejection of claim 67 has not been established. Claims 68 - 70 are directly dependent on claim 67 so the traversal of the claim 67 anticipation rejection also serves to traverse the rejection of these claims by making it clear that the Examiner has failed to establish a prima facie case of anticipation for the parent claim.

The Assignee respectfully submits that the rejection of independent claim 71 can be traversed by noting that Lyons: is missing elements contained in claim 71, provides insufficient detail regarding elements of claim 71 and that any alleged inherency of features of claim 71 has not been explained. Elements of claim 71 not explicitly or inherently described in the Lyons document include: obtaining a plurality of data dictionaries and data from a plurality of data sources via a network connection. Lyons also lacks detail regarding obtaining a plurality of data dictionaries and data from a plurality of data sources via a network connection and any alleged inherency of obtaining a plurality of data dictionaries and data from a plurality of data sources via a network connection has not been explained. The Assignee notes that there are still other ways in which the §102 rejection of claim 71 can be traversed. As a result of these deficiencies, a prima facie case that would support the anticipation rejection of claim 71 has not been established. Claims 72 - 76 are directly dependent on claim 71 so the traversal of the claim 71 anticipation rejection also serves to traverse the rejection of these claims by making it clear that the Examiner has failed to establish a prima facie case of anticipation for the parent claim.

The Assignee respectfully submits that the rejection of independent claim 77 can be traversed by noting that Lyons: is missing elements contained in claim 77, provides insufficient detail regarding elements of claim 77 and that any alleged inherency of features of claim 77 has not been explained. Elements of claim 77 not explicitly or inherently described in the Lyons document include: obtaining a plurality of data dictionaries and data from a plurality of data sources via a network connection. Lyons also lacks detail regarding obtaining a plurality of data dictionaries and data from a plurality of data sources via a network connection and any alleged inherency of obtaining a plurality of data dictionaries and data from a plurality of data sources via a network connection has not been explained. The Assignee notes that there are still other ways in which the §102 rejection of claim 77 can be traversed. As a result of these deficiencies, a prima facie case that would support the anticipation rejection of claim 77 has not been

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established. Claims 78 - 81 are directly dependent on claim 77 so the traversal of the claim 77 anticipation rejection also serves to traverse the rejection of these claims by making it clear that the Examiner has failed to establish a prima facie case of anticipation for the parent claim.

Summarizing the above, the Assignee respectfully submits that the Examiner has failed to produce the evidence required to establish a prima facie case of anticipation for a single claim. The complete failure to identify anticipation at the claim level clearly illustrates the fact that the cited reference is not even remotely similar to the claimed invention. As noted in MPEP 2112, anticipation requires that a substantial identity be established. Taken together, these failures provide additional evidence that the claimed invention for producing concrete, tangible and useful results is new, novel and non-obvious. The Assignee notes that there are still other ways in which the §102 anticipation rejections in the 20 October 2006 Office Action for claims 44 – 59 and 65 - 81 can be traversed.

Objections

The Assignee objects to all attempts by the Examiner to re-define the term "intangible assets". This attempt is unacceptable and unsuccessful because it is well established that the inventor or assignee is the lexicographer and/or grammarian for an application (W.L. Gore and Associates v. Garlock, Inc. 721 F.2d. 1540, 1558, 220 USPQ 303, 316 (Fed Cir. 1983); Fromson v. Advance Offset Plate, Inc. 720 F.2d 1565, 219 USPQ 1137, 1140 (Fed Cir. 1983); Autogiro Co v. U.S., 384 F2d 391, 197, 155 USPQ 697, 702 (Ct. Cl. 1967). The reason for these attempt are not clear as the claims do not use the term "intangible assets".

Statement under 37 CFR 1.111

37 CFR 1.111 requires that the basis for amendments to the claims be pointed out after consideration of the references cited or the objections made. 37 CFR 1.111 states in part that:

> In amending in response to a rejection of claims in an application or patent undergoing reexamination, the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. He or she must also show how the amendments avoid such references or objections.

The Assignee notes that this requirement is not relevant to the instant application because, as detailed above, there are no references or objections to avoid. In fact, the opposite is true as the prosecution to date of this application, the cross referenced applications and the applications in the c.i.p. chain has produced references that have documented approximately 200 instances of novelty, non-obviousness and newness relative to the state of the art. The Assignee notes that the reason a few claims were amended was to put the application in a form for issue and allowance by fixing inadvertent clerical errors.
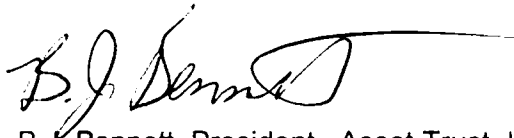
Reservation of rights

The Assignee hereby explicitly reserves the right to present the previously modified and/or canceled claims for re-examination in their original format. The cancellation or modification of pending claims to put the instant application in a final form for allowance and issue is not to be construed as a surrender of subject matters covered by the original claims before their cancellation or modification.

Conclusion

The pending claims are of a form and scope for allowance. Prompt notification thereof is respectfully requested.

Respectfully submitted,

B.J. Bennett, President   Asset Trust, Inc.
Date: December 17, 2006